HIGH COURT OF UTTARANCHAL AT - NAINITAL

Modification Application No. 5362 of 2004
IN
A.O. No. 201 of 2004

Smt. Nathiya & others. … Appellant.

Vs.

Motor Accident Claims Tribunal
And others. …. Respondents.

Sri D.S. Patni, learned counsel for the applicant/appellants.
None for the petitioner.

Hon'ble M.M. Ghildiyal, J.
Hon'ble Rajesh Tandon, J.

Heard Sri D.S. Patni, learned counsel for the applicant/ appellants on the modification application.

Counsel for the applicant/appellant has submitted that in the prayer clause of the memo of appeal the appellants have prayed that the compensation awarded by the Claims Tribunal on 1.04.2004 may be modify/ enhanced and the Claims Tribunal may be directed to release the entire amount deposited by the insurance company in favour of the claimants.

This Court on 17.062004 in A.O. no. 201 of 2004 has passed order to the following effect:-

"…….……We, therefore, modify the order passed by the M.A.C.T. concerned to the extent that the M.A.C.T. is directed to release Rs. 1,77,000/- (Rupees One lakh and seventy seven thousand only) in favour of the appellant/claimant no. 1 without furnishing security and the remaining amount of Rs. 1,00,000/- (Rupees One lakh) shall be kept in the form of FDR in a Nationalised Bank in the name of the appellant no. 2 and 3. Subject to the aforesaid observations, the appeal is disposed of finally."

By means of this application, the applicants have prayed that the order dated 17.06.2004 passed by this Court in A.O. no. 201 of 2004 Smt. Nathiya vs. Gopal Krishan Roonata and another may be modified.

Counsel for the applicant/appellants has confined his prayer to the extent that the Claims Tribunal may be directed to release the entire amount deposited by the insurance company in favour of the

claimants and he does not want to press the appeal in regard to the enhancement of the compensation awarded by the Claims Tribunal. He has further contended that all the claimants/appellants have now become major.

None is appeared to oppose the averments made in the application.

In view of the aforesaid facts and modification application deserves to be allowed.

Accordingly, we modify the order dated 17.06.2004 and the last paragraph of the order which reads as "*We, therefore, modify the order passed by the M.A.C.T. concerned to the extent that the M.A.C.T. is directed to release Rs. 1,77,000/- (Rupees One lakh and seventy seven thousand only) in favour of the appellant/claimant no. 1 without furnishing security and the remaining amount of Rs. 1,00,000/- (Rupees One lakh) shall be kept in the form of FDR in a Nationalised Bank in the name of the appellant no. 2 and 3. Subject to the aforesaid observations, the appeal is disposed of finally.*", shall be deleted and in place of this paragraph, the following paragraph be added:-

"The order passed by the Motor Accident Claims Tribunal concerned is modified to the extent that the Claims Tribunal shall release the entire amount of compensation as awarded by the Claims Tribunal in favour of the appellant/claimants alongwith 9% interest thereon.

Subject to the aforesaid observations, the appeal is disposed of finally."

(Rajesh Tandon, J.) **(M.M. Ghildiyal, J.)**

September 25, 2004:
NCM: